

APPEAL NO. 021879
FILED SEPTEMBER 9, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 25, 2002. The hearing officer determined that the respondent/cross-appellant's (claimant) compensable injury sustained on _____, extends to include the annular tears and shallow disc protrusions at levels L4-5 and L5-S1 without marked mechanical effect on the exiting nerve root, found in the lumbar spine MRI dated July 13, 2001, and that the claimant did not have disability resulting from the compensable injury from May 6, 2002, through the date of the CCH. The appellant (carrier) appeals the extent-of-injury determination, arguing that the claimant failed to prove a causal connection between the MRI findings and the compensable injury. The claimant responds, urging affirmance of the extent-of-injury determination, and cross-appeals the determination as to disability. The claimant's response was timely filed as a response to the carrier's request for review; however, the cross-appeal by the claimant of the disability determination is untimely as an appeal, as it was not filed within 15 days (excluding Saturdays, Sundays, and holidays listed in the Texas Government Code) from the receipt of the hearing officer's decision. Section 410.202(d). Accordingly, the disability determination has become final. Section 410.169.

DECISION

Affirmed.

Extent of injury is a factual determination for the hearing officer to resolve. There was conflicting medical evidence presented to the hearing officer. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMCOMP ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATE SERVICES COMPANY
800 BRAZOS, SUITE 330
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Margaret L. Turner
Appeals Judge